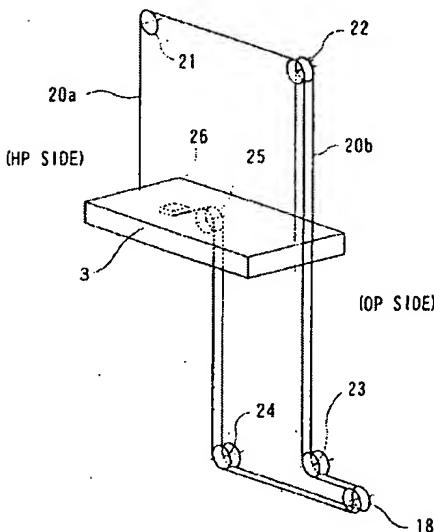


REMARKS / ARGUMENTS

The action by the Examiner of this application, together with the cited references, has been given careful consideration. Following such consideration, claims 5 and 6 remain unchanged, claim 2 has been cancelled, and claims 1, 3 and 4 have been amended to define more clearly the patentable invention Applicant believes is disclosed herein. It is respectfully requested that the Examiner reconsider the claims in their present form, together with the following comments, and allow the application.

As the Examiner well knows, the present invention is directed to an article conveying apparatus for conveying articles between article storage sections and an entry and exit port.

Referring now to FIG. 7 of the present application (repeated at left), a first cable travels from a front side end, i.e., HP SIDE end and a second cable travels from a rear side end, i.e., OP SIDE end, of the platform up to guide wheels 22. The pair of cables then travels in parallel downward around driving wheels 18 to guide wheels 24. Guide wheels 24 are disposed near the central portion of the lower frame between poles 4 (as can be seen in FIG. 2). The cables travel together from guide wheels 24 vertically to the lower portion, i.e., underside, of the platform. The cables are then guided together by guide wheels 25 to the tensioning device located on the platform.



It is respectfully submitted that none of the cited references teaches, suggests, or shows an article conveying apparatus as presently set forth in the claims, or the advantages thereof.

In response to the Examiner's rejections, claim 1 has been amended to indicate that a pair of raising and lowering cables are guided from *a front side end and a rear side end of an upper part of the platform* and are guided *together* vertically from the vicinity of the central

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portion of the running truck body to a vicinity of a central lower portion of said platform. Claim 1 has been further amended to incorporate the limitation of claim 2 and indicate that "a tension setting device that is arranged on said platform and sets a tension of said pair of raising and lowering cables."

The Examiner has rejected claims 1-6 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. Appropriate corrections have been made by amendment. Accordingly, it is respectfully requested that the Examiner now withdraw the 35 U.S.C. 112, second paragraph, rejection.

The Examiner has also rejected claims 1, 5, and 6 under 35 U.S.C. 102(b), as being anticipated by JP 01-092108 to Tanaka, and claims 2-4 stand rejected under 35 U.S.C. 103, as being obvious in view of the Tanaka reference.

The Tanaka reference discloses a raising and lowering device that includes a platform that is suspended by a pair of cables. The cables travel down to the lower end of the device together where they are passed through cable tensioners. After the cables exit the cable tensioners, each cable then travels separately along a vertical mast to opposite ends of the underside of the platform.

In the present invention, the pair of raising and lowering cables are guided to the vicinity of the central portion of the running truck body, and then "*together* vertically from the vicinity of the central portion of the running truck body to a vicinity of the central lower portion of the platform." In this regard, the cables of the present invention remain together after they pass driving wheels 18 and do not travel up to opposite ends of the underside of the platform along vertical poles as is disclosed by the Tanaka reference. The present invention, therefore, should not be taken as being obvious from the Tanaka reference.

The Tanaka reference also does not teach, suggest, or show an article conveying apparatus having "a tension setting device that is arranged on said platform and sets a tension of said pair of raising and lowering cables." The tension setting device of the present invention is directly attached to the platform. The tension setting device disclosed in the Tanaka reference is disposed below the platform such that it does not move with the platform. It is believed that the

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complex configuration of the tensioning device disclosed in Tanaka cannot be placed on the platform as disclosed without modification. Therefore, positioning the tensioning device as disclosed in Tanaka on the platform would not result in the present invention.

The Examiner states that “it would have been obvious to one of ordinary skill in the art to rearrange the parts of Tanaka so that the tensioner is located in the platform....” Applicant respectfully submits that the Examiner does not explain the motivation for one skilled in the art to rearrange the parts of Tanaka as suggested by the Examiner. To make a *prima facie* case for obviousness, the Examiner must identify the teaching, suggestion, or motivation to combine or modify the teachings of the prior art to produce the claimed invention. This rule is the first of three required criteria for a *prima facie* case of obviousness set forth in § 2143 of the MPEP:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teachings or suggestions to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Further, a PTO rejection for obviousness is improper when there is nothing in the cited prior art references, either singly or in combination, to suggest the desirability of the claimed subject matter. *In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986). The Examiner can satisfy the burden of showing obviousness only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. *In re Fritch*, 972 F.2d 1260, 1265, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992).

Applicant respectfully submits that the Examiner has not shown any teachings to combine the prior art. The Examiner indicated in the Office Action mailed June 28, 2006, that

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the tensioner would be located on the platform in order to “protect the tensioner from interference and/or contamination.” Applicant respectfully submits that there is nothing in the cited prior art references, either singly or in combination, to suggest that the tensioner be located “on the platform” in order to protect the tensioner from interference and/or contamination. Accordingly, Applicant respectfully requests that the Examiner identify the teaching, or suggestion, to locate the tensioner of Tanaka “on the platform” to make the present invention.

Claims 3-6 depend from claim 1. Thus, it is respectfully submitted that these claims are patentable over the cited references for at least the reasons set forth above in connection with claim 1.

The arrangement of the guide wheels in the present invention is such that the pair of raising and lowering cables are guided together vertically from the vicinity of a central portion of the running truck body to a vicinity of a central lower portion of the platform. This arrangement allows the cables to be attached at one end to the tensioning device that is located on the platform. Because the tensioning device is configured such that it is attached to one end of each of the raising and lowering cables, the tensioning device is subjected to less force than the tensioning device disclosed in the Tanaka reference. Because the tensioning device of the present invention is subjected to less force than the disclosed device, the tensioning device can be made of lighter materials which facilitates mounting the tensioning device to the platform.

The cited references made of record and not relied upon have also been reviewed. It is respectfully submitted that none of these additional references teaches, suggests, or shows the applicant’s invention as defined by the present claims.

In view of the foregoing, it is respectfully submitted that the present application is now in proper condition for allowance. If the Examiner believes there are any further matters that need to be discussed in order to expedite the prosecution of the present application, the Examiner is invited to contact the undersigned.

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If there are any fees necessitated by the foregoing communication, please charge such fees to our Deposit Account No. 50-0537, referencing our Docket No. MM8845US.

Respectfully submitted,



Mark Kusner, Reg. No. 31,115

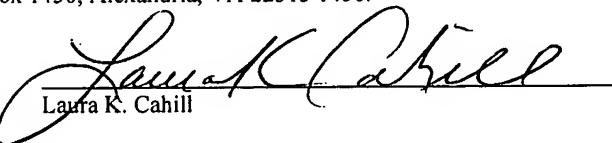
Date: September 8, 2006

KUSNER & JAFFE
Highland Place – Suite 310
6151 Wilson Mills Road
Highland Heights, Ohio 44143
(440) 684-1090 (phone)
(440) 684-1095 (fax)

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence (along with any paper referenced as being attached or enclosed) is being deposited on the below date with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to MAIL STOP AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: September 8, 2006



Laura K. Cahill